

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3939 OF 2022

Jitendra Sukhadeo Chavan ..Applicant
VS.
The State of Maharashtra ..Respondent

Mr. Kalpesh U. Patil for the Applicant.

Mr. S. V. Gavand, APP for the State.

Head Constable Borate, Akluj Police Station, Dist. Solapur

CORAM : M. S. KARNIK, J.
DATE : FEBRUARY 17, 2023

P.C. :

- 1.** Heard learned counsel for the applicant and learned APP for the State.
- 2.** This is an application for bail by the applicant- Jitendra Sukhadeo Chavan in connection with C.R. No.677 of 2021 dated 30/08/2021, registered with Akluj Police Station, under sections 302 and 34 of the Indian Penal Code, 1860.
- 3.** The applicant is the accused along with co-accused - Raghunath Sukhdeo Chavan (hereinafter referred as "co-accused") who had filed a bail application bearing no. 2346 of 2022 in this Court. The co-accused was released on bail by order dated 29/11/2022. The relevant portion of the order reads thus:

"2. The applicant came to be arrested in Crime No. 677 of 2021 registered at Akulj police station for the offence punishable under Section 302 read with 34 of Indian Penal Code.

3. According to the prosecution on 30 August 2021 at about 6.00 a.m. the present applicant alongwith other co-accused came to the house of the deceased. It is alleged that then they all went towards Tambve village on motorcycle. It is alleged that at about 9.30 p.m. some altercation took place between the deceased and accused. According to the prosecution the accused were asking the deceased to give them Rs. 100/- for purchasing liquor. It is alleged that as the deceased refused to give the said amount, the present applicant and other co-accused assaulted the deceased by stone and committed his murder.

4. I have heard the learned counsel for the applicant and the learned APP for the respondent-State.

5. The learned counsel for the applicant submits that alleged eye-witnesses are resident of same village. However, they did not disclose to the Investigating Officer that they had seen the incident for eight days. It is submitted that, therefore, they appears to be got up witnesses. It is submitted that considering the facts and circumstances the applicant may be released on bail.

6. On the other hand the learned APP for the respondent-State and the learned counsel for the intervener submits that whether the eye-witnesses are got up witnesses or cannot be gone into at this stage. It is submitted that the applicant has not assigned any reason for the eye-witnesses to implicate the present applicant in such a serious offence. It is submitted that considering the nature of offence the applicant may not be released on bail.

7. I have perused the FIR. It appears that on 30 August 2021 at about 10.30 a.m. the dead body of the deceased was found lying in the agricultural field of one Laxman Chavan. The alleged eye-witnesses were present there at that time. Prima facie, their statements do not disclose any reason for belated

disclosure to the Investigating Officer that they are eye-witnesses to the incident. Considering the facts and circumstances, I am inclined to release the applicant on bail.”

4. Learned counsel for the applicant is justified in claiming parity with the co-accused. Therefore, I am inclined to release the applicant on bail. No criminal antecedents are reported. Hence, the following order.

ORDER

(a) Application is allowed.

(b) The applicant- Jitendra Sukhadeo Chavan in connection with C.R. No.677 of 2021, registered with Akluj Police Station, shall be released on bail, on his furnishing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.

(c) The applicant shall not stay at village Tambve till the conclusion of trial and shall seeks permission of the trial Court if he is required to enter the said village.

(d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential

address to the Investigating Officer and shall keep him updated, in case there is any change.

5. Needless to mention that the observations are *prima facie*.

6. The application is disposed of.

(M. S. KARNIK, J.)